S.B.Civil Revision Petition No.720/02.
Sardar Harnam Singh Puri vs. Union of India

Date of Order: 14.9.2006.

HON'BLE MR. PRAKASH TATIA, J.

Mr. Rajesh Joshi for the petitioner.
Mr. P.S.Bhati for the respondent.

This revision is directed against the order dated 20.7.2002 passed by the trial court. By the said order, the trial court dismissed the defendant's application filed under Order 7 Rule 11, C.P.C.

It appears that total three suits were filed by the same plaintiff-Union of India against the appellant-defendant for recovery of certain amount. Before three suits were filed, the dispute was referred to the arbitrator and the learned arbitrator passed the award. The defendant's contention is that in view of the final adjudication of dispute by the learned arbitrator, the suit filed by the respondent-plaintiff is not maintainable. The plaintiff took a defence that there was limitation in the arbitration clause for referring the dispute to the arbitrator and, therefore, the claim upto 20% of the work contract could only have been referred to the arbitrator and, therefore, the suit for the amount exceeding 20% of the contract amount is maintainable.

All the three orders passed in separate suit nos.33/99, 34/99 and 42/99 have been challenged by the defendant-petitioner by preferring S.B.Civil Revision Petition Nos.669/2002, 670/2002 and the present revision petition no.720/2002. The question involved in all these three

revision petitions was the same and that is whether the suit of the plaintiff is/was barred under Order 7 Rule 11, C.P.C. in view of the fact that the dispute has already decided by the arbitrator and once the award is passed, no other course can be adopted for raising the dispute.

S.B.Civil Revision Petition No.670/2002 came up for hearing and was decided by the order of this Court on 1.9.2005 and another Revision Petition No.669/2002 was also decided by this Court on 13.9.2005. This Court held that in view of the final adjudication of dispute by the award, the suit of the plaintiff was not maintainable in above two matters. In the present case also the order dated 20.7.2002 is verbatim the same and the point involved is also the same. Therefore, in view of the fact that the issue has already been decided against the plaintiff-respondent, this revision petition deserves to be allowed in view of the reasons given in the said order.

Hence the revision petition is allowed. The order of the trial court dated 20.7.2002 passed in Civil Original Suit No.42.1999 is set aside. The application of the petitioner-defendant filed under Order 7 Rule 11 C.P.C. read with Section 34 of the Arbitration Act is allowed and the suit of the plaintiff is dismissed.

(**PRAKASH TATIA),J.**

mlt.